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REMARKS

Generally

The Examiner has indicated that claims 1-10 are pending in the application, claim 11 having been cancelled; that claims 1-3, 7-8 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Mellott; that claims 1, 4-5 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Petty or Preissler; that claims 1, 8-9 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Dubinsky; that claim 6 is rejected under 35 U.S.C. 103(a) as unpatentable over Mellott; and that claim 10 is rejected under 35 U.S.C. 103(a) as unpatentable over Dubinsky in view of Feldman. Applicant, by this Amendment, cancels the rejected claims, and submits new claims 12-23, in accordance with the Examiner's indications.

Response to Rejections Based on 35 U.S.C. § 102(b)

The Examiner has indicated that claims 1-10 are pending in the application, claim 11 having been cancelled; that claims 1-3, 7-8 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Mellott; that claims 1, 4-5 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Petty or Preissler; that claims 1, 8-9 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Dubinsky.

Applicant, by this Amendment A, submits new claim 12, which highlights a novel feature of applicant's invention: namely, the means for constructing a dome structure in courses. Claim 13 specifies the means as a center connector affixed to the center of the polygonal member of the strutless building module. Claim 14 further limits the center connector as comprising a center connecting bolt, a center connecting washer positioned over the center connecting bolt, wherein the center connecting bolt depends downwardly from the interior surface of the module when the module is laid flat on its lower edge.

As set forth in the specification, page 4 line 14 page 5 line 8, and again at page 10 line 11 through page 12 line 18, the center connector plays a unique role in the production of a dome structure constructed from the inventive modules. Specifically, an overhead hoist is erected (either boomless, as described in the specification, or utilizing a boom, as would be known in the art). An array of modules is positioned generally in a circle and each of the modules is connected at their sides to form the uppermost section of the dome, excluding the topmost module. The modules thus connected form an upper course. Connection cables are then assembled and the end of each cable is connected to one of the center connectors of the assembled modules. The connection cables are connected at their respective upper ends, and a winch is positively operated to elevate the uppermost dome course of modules above the ground. The first elevated lift or course is illustrated in Fig. 6. Construction continues in courses, or lifts, and the elevated first course enables workers to work from the top of the dome down; that is, they are able to connect one module after another to the lower sides of assembled first course of modules. The lifts are repeated until the dome is constructed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). [MPEP 2131]

The inventive module is novel in having means for assembling a dome in courses using a hoist. The means, i.e., a center connector, is unique and pivotal in enabling this construction

method. Without the balanced means for connecting the inventive modules to a common hoist, the course could not be evenly lifted in the manner described.

None of the references cited in the outstanding Office Action address or facilitate this construction method, nor do they contain the means for constructing a dome in courses (as in new claim 12) or teach or disclose such means as comprising a center connector as described and claimed (as in new claims 13 and 14). Moreover, several of the references teach discrete covers, rather than modules adapted for assembly into a dome structure. Mellott teaches a shelter structure having a center bolt for sandwiching and securing the tubes and roof sections comprising the structure. The bolt does not function as a center connector for assembling a plurality of the disclosed structure in courses. Furthermore, Mellott does not include angled sides suitable for connecting a plurality of modules into a dome structure. The tubes constituting the sides of the structure are adapted only for joining the structures together for support by a plurality of vertical posts.

Likewise, Petty discloses a outdoor grain pit cover suited only for use as a standalone unit. Petty does not teach or disclose any means for assembling a dome in courses, nor does Petty teach a module having angled sides suited for connecting one module to an adjoining module. This is also true of Dubinsky and Feldman.

Preissler discloses a polygonal building structure, but the structure is constructed of a number of different components. There is not disclosed in Preissler a single module which when assembled comprises a dome structure. Again, Preissler does not teach every element of the instant invention, most notably including a module having angled sides and means for assembling a dome structure in courses.

For the foregoing reasons, it is respectfully submitted that the foregoing references do not anticipate the instant invention as newly claimed and that the rejections under 35 U.S.C. 102(b) are moot in view of the newly submitted claims.

Response to Rejections Based on 35 U.S.C. § 103(a)

The examiner has indicated that claim 6 is rejected under 35 U.S.C. 103(a) as unpatentable over Mellott, and that claim 10 is rejected under 35 U.S.C. 103(a) as unpatentable over Dubinsky in view of Feldman.

"In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification." *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). [MPEP 2143.01]

None of the above-indicated references, alone or in combination, teaches or suggests, nor includes any suggestion or motivation to modify the references, to produce the instant invention as newly claimed. Accordingly, it is respectfully submitted that the rejections under 35 U.S.C. 103(a) are moot and that the pending claims are in condition for allowance.

Regarding the Drawings

The Examiner has further indicated that the original (informal) drawings are objected to, and that new drawings are required. Applicant will file new, formal drawings upon receipt of the Notice of Allowability.

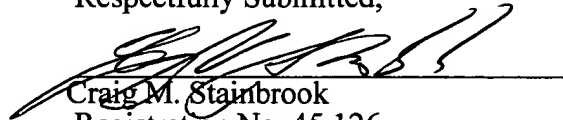
Application Ser. No: 09/557,693
Applicant: McCARTEN, James
Attorney Docket No: 00409.P1

Conclusion

In view of these amendments and comments it is respectfully submitted that all pending claims are in condition for allowance, and such allowance is respectfully requested. The Examiner is invited to call Applicant's undersigned attorney if, in the opinion of the Examiner, a telephone conference will in any way expedite prosecution of this application.

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Respectfully Submitted,


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